

**IN THE MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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**COMPLETE TITLE OF CASE**

OTIS CORNELIOUS,

Appellant,

v.

STATE OF MISSOURI,

Respondent.

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**DOCKET NUMBER WD72866**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**DATE:** September 27, 2011

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**APPEAL FROM**

The Circuit Court of Jackson County, Missouri  
The Honorable W. Stephen Nixon, Judge

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**JUDGES**

Division Four: Hardwick, C.J., Pfeiffer, J., and Schieber, Sp.J.

CONCURRING.

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**ATTORNEYS**

James R. Hobbs  
J. Justin Johnston  
Kansas City, MO

Attorneys for Appellant,

Chris Koster, Attorney General  
Shaun J. Mackelprang, Assistant Attorney General  
Jefferson City, MO

Attorneys for Respondent.

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## MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

OTIS CORNELIOUS, )  
)  
Appellant, )  
v. ) **OPINION FILED:**  
) **September 27, 2011**  
STATE OF MISSOURI, )  
)  
Respondent. )

**WD72866**

**Jackson County**

**Before Division Four** Lisa White Hardwick, Chief Judge, Presiding,  
**Judges:** Mark D. Pfeiffer, Judge, and Robert M. Schieber, Special Judge

Otis Cornelious (“Cornelious”) was convicted of murder in the first degree and armed criminal action and was sentenced to life imprisonment without the possibility of probation or parole for the murder charge and twenty-seven years imprisonment for the armed criminal action charge, sentences to run concurrently. His convictions and sentences for these crimes were affirmed on direct appeal. He now appeals from the judgment of the Circuit Court of Jackson County, Missouri, denying his timely filed Rule 29.15 motion for post-conviction relief based on ineffective assistance of counsel in failing to object and failing to investigate.

**AFFIRMED.**

**Division Four holds:**

1. Cornelious’s counsel’s failure to object to the prosecutor’s comment on Cornelious’s post-arrest, post-*Miranda* warnings silence during closing argument, which occurred when the prosecutor stated that Cornelious had two years to think about his story, did not constitute ineffective assistance of counsel. Although counsel did not have a strategic reason for failing to make a contemporaneous objection, such failure to object did not result in prejudice, particularly where the comment was isolated, brief, and not emphasized by the prosecutor.

2. Cornelious’s trial counsel was not ineffective for failing to call a fingerprint expert or for failing to use an American Society of Crime Laboratory Directors (ASCLD) audit to impeach

Kansas City Crime Lab conclusions at trial because neither would have resulted in a different outcome at trial.

**Opinion by: Mark D. Pfeiffer, Judge**

September 27, 2011

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